



Revenue Interim Committee

67th Montana Legislature

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

SENATE MEMBERS

JILL COHENOUR
GREG HERTZ
BRIAN HOVEN
MIKE LANG
EDIE MCCLAFFERTY
SHANNON O'BRIEN

HOUSE MEMBERS

BECKY BEARD
ALICE BUCKLEY
CONNIE KEOGH
MARK THANE
JEREMY TREBAS
TOM WELCH

COMMITTEE STAFF

MEGAN MOORE, Lead Staff
JARET COLES, Staff Attorney
ALEXIS NEWCOMER, Secretary

TO: Committee Members
FROM: Jaret Coles, Staff Attorney
RE: Administrative Rule Activity
DATE: April 6, 2022

Department of Revenue

Proposal and Adoption Notices are available on the Internet:

Department of Revenue notices can be found on the Secretary of State's website at <http://www.mtrules.org>. Under the Montana Administrative Register heading, type the number "42" in the "Search by Notice No." box and click on the "Go" icon.

Notice of Proposed Rule:

Income Tax -- Housekeeping -- Repeal of Rules Pertaining to Eliminated Tax Credits – Senate Bill No. 399 (2019). A public hearing will be held on May 9, 2022, at 2:00 p.m. The public comment period ends on May 16, 2022. The Department proposes to amend two rules (ARM [42.4.1202](#) and [42.26.101](#)) and repeal 14 rules (ARM [42.4.121](#), [42.4.201 through 42.4.209](#), [42.4.1702](#), [42.4.2801 through 42.4.2803](#)). The 67th Montana Legislature enacted [Senate Bill No. 399](#) which, among other things, eliminated or revised certain individual income tax credits which were provided in 15-30-2319, 15-30-2367, 15-30-2381, 15-31-131, 15-31-132, 15-31-171, and 15-32-109, MCA. Those statutes were all repealed by [Senate Bill No. 399](#) effective January 1, 2022. As such, the Department proposes to amend and repeal the rules that implement the repealed statutes to implement [Senate Bill No. 399](#).

Adopted/Amended Rules:

Electrical Generation and Transmission Facility Exemptions and New Or Expanded Industry Credit for Corporate Income Taxes -- Senate Bill No. 35 (2021) and Senate Bill No. 45 (2021) . MAR 42-1045.

Adopted January 18, 2022. No public comments were received in support or opposition to the proposed amendments and the Department amended three rules and repealed 12 rules as proposed. The general statement of reasonable necessity provides as follows:

The 67th Montana Legislature enacted Senate Bill 35 (SB 35) which, among other things, repealed the electrical generation and transmission facility exemption provided in 15-24-3001, MCA, and the tax computation rollback provided in 15-24-3002, MCA, both of which expired in 2016. Similarly, Senate Bill 45 (SB 45) repealed the new or expanded industry credit for corporate income taxes which the 2019-2020 Revenue Interim Committee determined should be discontinued due to underutilization since its creation in 1975.

Based on the passage of SB 35 and SB 45, the department finds it necessary to propose the amendment and repeal of the above-stated rules to reflect the passage of the legislation. All amendments remove singular statutory references from each rule's implementing authority. The repealed rules reflect SB 45's repeal of the rules' primary authorizing statute: 15-31-127, MCA.

Selective Sales Taxes -- Lodging Facility Sales and Use Taxes and Rental Vehicle Sales and Use Taxes --
[House Bill No. 175](#) (2019), [Senate Bill No. 338](#) (2019), and [Senate Bill No. 52](#) (2021). [MAR 42-1043](#).

Adopted February 1, 2022. A public hearing was held, and the Department amended 11 rules and repealed six rules as proposed. Additionally, the Department received oral and written comments from one individual and written only comment from another individual. Based on the comments received, the Department revised three rules. The amendments generally implement [Senate Bill No. 52](#), which aligned the definitions for the lodging facility use tax and the sales tax on lodging while also addressing online hosting platforms that offer lodging and rental cars. Amendments include clarification on definitions, the seller's obligation to collect the selective sales taxes, seller registration requirements, the seasonal seller registration process, dealing with combined charges for services that are not part of the sale of accommodations including food, beverage, recreation, or other charges, exemptions from the tax, and the audit process. The repealed sections pertain to items that are no longer applicable under existing law.